

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHWESTERN DIVISION**

|   |   |                         |
|---|---|-------------------------|
| <b>LISA AINSWORTH SOKOLL,</b>             | ) |                         |
|   | ) |                         |
| <b>Plaintiff,</b>                         | ) |                         |
|   | ) |                         |
| <b>Vs.</b>                                | ) | <b>CIVIL ACTION NO.</b> |
|   | ) | _____                   |
|   | ) |                         |
| <b>RED BULL NORTH AMERICA, INC.,</b>      | ) |                         |
| <b>1740 Stewart Street</b>                | ) |                         |
| <b>Santa Monica, CA 90404</b>             | ) |                         |
|   | ) |                         |
| <b>RED BULL GmbH</b>                      | ) |                         |
| <b>Address unknown.</b>                   | ) |                         |
|   | ) |                         |
| <b>ABC, that person or entity who or</b>  | ) |                         |
| <b>which is unknown to the Plaintiff,</b> | ) |                         |
| <b>and who is a distributor of an</b>     | ) |                         |
| <b>energy drink known as RED BULL,</b>    | ) |                         |
|   | ) |                         |
| <b>Defendants.</b>                        | ) |                         |

**NOTICE OF REMOVAL**

**Comes Now** Defendant **RED BULL NORTH AMERICA, INC.** in the above-styled action and pursuant to 28 U.S.C. § 1332, 28 U.S.C. § 1441, and 28 U.S.C. § 1446 files this Notice of Removal of this action from the Circuit Court of Lauderdale County, Alabama to the United States District Court for the Northern District of Alabama, Northwestern Division. In support of this Notice, this Defendant shows unto the Court the following:

### **BACKGROUND OF THIS ACTION**

1. On November 6, 2018, the Plaintiff commenced this action in the Circuit Court of Lauderdale County, Alabama. Although Defendant Red Bull North America, Inc. (“RBNA”) has not yet been properly served with the Summons and Complaint, Defendant RBNA hereby waives service for the purpose of removing this action to the United States District Court for the Northern District of Alabama, Northwestern Division.<sup>1</sup> Additionally, no co-defendant has been properly served or joined. This case is being removed within thirty days of waiver of service of the Complaint by Defendant RBNA and well within one year of the commencement of this action.

2. As required by 28 U.S.C. § 1446(a), “a copy of all process, pleadings, and orders served upon such defendant” are attached hereto as Exhibit “A,” and are incorporated herein by reference. *Id.*

3. This case is a civil action in which the Plaintiff seeks to recover damages in excess of \$75,000 from Defendant RBNA, exclusive of interest and costs.

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<sup>1</sup> Defendant RBNA waives service for purpose of removal only on RBNA’s own behalf and not on behalf of any defendant other than Defendant RBNA.

4. The caption of the Plaintiff's complaint states that the address for co-defendant Red Bull GmbH is unknown. However, Red Bull GmbH is an Austrian company located in Fuschl am See, Austria.

5. Also, within the caption of the Plaintiff's complaint, the Plaintiff lists names of fictitious defendants. For purposes of removal, "The citizenship of defendants sued under fictitious names shall be disregarded." *See* 28 U.S.C. § 1441(b)(1).

6. According to the Complaint, Plaintiff Lisa Ainsworth Sokoll on November 7, 2016 "drank two cans of Red Bull" and purportedly "had a seizure". (*See* Compl. ¶¶3, 4.) The Complaint, further, alleges that Plaintiff Lisa Ainsworth Sokoll suffered "more seizures and became epileptic" and "has physical injuries, economic injuries, and mental anguish as she is unable to [sic] many things that she could before." (*Id.* ¶¶6, 11.)

7. The Complaint alleges that RBNA failed to adequately warn the Plaintiff and others of the "dangers of drinking Red Bull." The Complaint seeks damages in the amount of \$10,000,000. (Compl. ¶10 and Ad Damnum.)

### **THE PLAINTIFF**

8. As stated in the Complaint, Plaintiff Lisa Ainsworth Sokoll is an individual citizen of the state of Alabama. (*See* Compl. at ¶ 1).

### **THE REMOVING DEFENDANT**

9. At all times referred to in the Complaint including the dates of filing of the Complaint, Defendant RBNA was a corporation existing under the laws of California with its principal place of business in Santa Monica, California. (*See* Exhibit “B”, Articles of Incorporation.) Accordingly, RBNA is a citizen of California.

### **GROUND FOR REMOVAL**

10. This case is being removed pursuant to 28 U.S.C. § 1441 *et. seq.*, inasmuch as this action could have originally been brought in this Court pursuant to 28 U.S.C. § 1332.

11. This Notice of Removal is timely filed because it is being submitted within thirty (30) days of waiver of service of the Complaint by RBNA and well within one (1) year of the commencement of the action.

12. The amount in controversy exceeds \$75,000, exclusive of interest and costs.

13. A true and correct copy of this Notice of Removal is being served on counsel for the Plaintiff on this date.

14. A true and correct copy of this Notice of Removal is being filed with the Clerk of the Circuit Court of Lauderdale County, Alabama on this date.

**JURISDICTION UNDER 28 U.S.C. § 1332**

15. This action could have originally been brought in this Court pursuant to 28 U.S.C. § 1332 in that it is a civil action wherein the matter in controversy exceeds \$75,000 exclusive of interest and costs and there is diversity of citizenship among the parties.

16. The Complaint seeks \$10,000,000, plus court costs.

17. There is complete diversity of citizenship among the parties to Plaintiff's Complaint.

18. Defendant RBNA, by virtue of filing this Notice of Removal, does not waive any defenses or objections available to it under the law (other than for proper service of the Complaint as to Defendant RBNA only), including, but not limited to, its right to contest the sufficiency of the Complaint or to allow this Court to exercise personal jurisdiction over Defendant RBNA.<sup>2</sup>

19. This suit is removed to this Court, under and by virtue of the Acts of Congress of the United States, and Defendant RBNA is desirous of removing said cause to this Court.

20. Defendant RBNA requests a trial by struck jury.

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<sup>2</sup> In no way does the filing of this Notice of Removal purport to waive any defenses or objections available to it under the law on behalf of co-defendant Red Bull GmbH or any fictitious defendants.

WHEREFORE, PREMISES CONSIDERED, Defendant RBNA prays that the above-titled cause be removed to the United States District Court for the Northern District of Alabama, Northwestern Division, according to the statutes in such case made and provided.

DONE this 21st day of December 2018.

/s/T. Kelly May

T. Kelly May (asb-6090-y57t)

Joseph R. Duncan, Jr. (asb-8851-h35d)

Attorneys for Defendant,

Red Bull North America, Inc.

**OF COUNSEL:**

HUIE, FERNAMBUCQ & STEWART, LLP

Three Protective Center

2801 Highway 280 South, Suite 200

Birmingham, Alabama 35223-2484

TEL: 205-251-1193

FAX: 205-251-1256

[kmay@huielaw.com](mailto:kmay@huielaw.com)

[jduncan@huielaw.com](mailto:jduncan@huielaw.com)

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the above and foregoing document on all counsel of record, by electronic notice and/or by placing a copy of same in the United States Mail, postage prepaid and properly address, on this the 21st day of December 2018:

*Attorneys for Plaintiff*  
John Kennemer, Esq.  
106 W 2<sup>nd</sup> Street  
Tuscumbia, AL 35674  
[kennemerlaw@gmail.com](mailto:kennemerlaw@gmail.com)

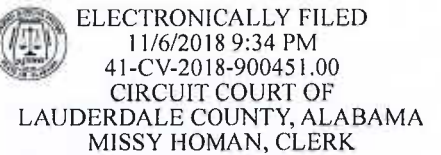
/s/T. Kelly May  
Of Counsel

## **Exhibit "A"**





|  |  |   |
|--|--|---|
| State of Alabama<br>Unified Judicial System<br><br>Form ARClv-93 Rev. 9/18   | <b>COVER SHEET</b><br><b>CIRCUIT COURT - CIVIL CASE</b><br>(Not For Domestic Relations Cases)  | Ca:<br><b>41</b><br>Date of Filing:<br>11/06/2018 |
| CIRCUIT COURT OF LAUDERDALE COUNTY, ALABAMA<br>MISSY HOMAN, CLERK<br>Judge Code:   |  |   |
| <b>GENERAL INFORMATION</b>   |  |   |
| <b>IN THE CIRCUIT COURT OF LAUDERDALE COUNTY, ALABAMA</b><br><b>LISA AINSWORTH SOKOLL v. RED BULL NORTH AMERICA, INC ET AL</b>   |  |   |
| <b>First Plaintiff:</b> <input type="checkbox"/> Business <input checked="" type="checkbox"/> Individual <b>First Defendant:</b> <input checked="" type="checkbox"/> Business <input type="checkbox"/> Individual<br><input type="checkbox"/> Government <input type="checkbox"/> Other <input type="checkbox"/> Government <input type="checkbox"/> Other   |  |   |
| <b>NATURE OF SUIT:</b> Select primary cause of action, by checking box (check only one) that best characterizes your action:   |  |   |
| <b>TORTS: PERSONAL INJURY</b><br><input type="checkbox"/> WDEA - Wrongful Death<br><input type="checkbox"/> TONG - Negligence: General<br><input type="checkbox"/> TOMV - Negligence: Motor Vehicle<br><input type="checkbox"/> TOWA - Wantonness<br><input checked="" type="checkbox"/> TOPL - Product Liability/AEMLD<br><input type="checkbox"/> TOMM - Malpractice-Medical<br><input type="checkbox"/> TOLM - Malpractice-Legal<br><input type="checkbox"/> TOOM - Malpractice-Other<br><input type="checkbox"/> TBFM - Fraud/Bad Faith/Misrepresentation<br><input type="checkbox"/> TOXX - Other: _____<br><br><b>TORTS: PERSONAL INJURY</b><br><input type="checkbox"/> TOPE - Personal Property<br><input type="checkbox"/> TORE - Real Properly<br><br><b>OTHER CIVIL FILINGS</b><br><input type="checkbox"/> ABAN - Abandoned Automobile<br><input type="checkbox"/> ACCT - Account & Nonmortgage<br><input type="checkbox"/> APAA - Administrative Agency Appeal<br><input type="checkbox"/> ADPA - Administrative Procedure Act<br><input type="checkbox"/> ANPS - Adults in Need of Protective Services | <b>OTHER CIVIL FILINGS (cont'd)</b><br><input type="checkbox"/> MSXX - Birth/Death Certificate Modification/Bond Forfeiture Appeal/<br>Enforcement of Agency Subpoena/Petition to Preserve<br><br><input type="checkbox"/> CVRT - Civil Rights<br><input type="checkbox"/> COND - Condemnation/Eminent Domain/Right-of-Way<br><input type="checkbox"/> CTMP - Contempt of Court<br><input type="checkbox"/> CONT - Contract/Ejectment/Writ of Seizure<br><input type="checkbox"/> TOCN - Conversion<br><input type="checkbox"/> EQND - Equity Non-Damages Actions/Declaratory Judgment/<br>Injunction Election Contest/Quiet Title/Sale For Division<br><br><input type="checkbox"/> CVUD - Eviction Appeal/Unlawful Detainer<br><input type="checkbox"/> FORJ - Foreign Judgment<br><input type="checkbox"/> FORF - Fruits of Crime Forfeiture<br><input type="checkbox"/> MSHC - Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition<br><input type="checkbox"/> PFAB - Protection From Abuse<br><input type="checkbox"/> EPFA - Elder Protection From Abuse<br><input type="checkbox"/> FELA - Railroad/Seaman (FELA)<br><input type="checkbox"/> RPRO - Real Property<br><input type="checkbox"/> WTEG - Will/Trust/Estate/Guardianship/Conservatorship<br><input type="checkbox"/> COMP - Workers' Compensation<br><input type="checkbox"/> CVXX - Miscellaneous Circuit Civil Case |   |
| <b>ORIGIN:</b> F <input checked="" type="checkbox"/> INITIAL FILING    A <input type="checkbox"/> APPEAL FROM DISTRICT COURT    O <input type="checkbox"/> OTHER<br><br>R <input type="checkbox"/> REMANDED    T <input type="checkbox"/> TRANSFERRED FROM OTHER CIRCUIT COURT   |  |   |
| <b>HAS JURY TRIAL BEEN DEMANDED?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO    Note: Checking "Yes" does not constitute a demand for a jury trial. (See Rules 38 and 39, Ala.R.Civ.P., for procedure)   |  |   |
| <b>RELIEF REQUESTED:</b> <input checked="" type="checkbox"/> MONETARY AWARD REQUESTED <input type="checkbox"/> NO MONETARY AWARD REQUESTED   |  |   |
| <b>ATTORNEY CODE:</b><br>KEN006    11/6/2018 9:34:15 PM    /s/ JOHN MACLIN KENNEMER<br>Date    Signature of Attorney/Party filing this form  |  |   |
| <b>MEDIATION REQUESTED:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNDECIDED   |  |   |
| <b>Election to Proceed under the Alabama Rules for Expedited Civil Actions:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO   |  |   |

[illegible]

## COMPLAINT

1. The Plaintiff Lisa Ainsworth Sokoll (Lisa) is an adult and a resident of Lauderdale County, Alabama.
2. Red Bull North America, Inc., and Red Bull GmbH, are distributors of an energy drink known as “Red Bull”.
3. On or about November 7, 2016, Lisa was helping her children with their homework, and she drank two cans of Red Bull.
4. After drinking the Red Bull, Lisa had a seizure and her husband drove her to the hospital.
5. Lisa had never had a seizure in her life.
6. After the first seizure, Lisa had more seizures and became epileptic.
7. She had more symptoms such as loss of memory.
8. The Red Bull consumed by Lisa was used in its intended way.

9. Lisa went to a lot of doctors to figure out why she was having all of the symptoms. A doctor has made a diagnose that her seizures and symptoms were caused by her drinking the Red Bull.

10. Red Bull North America, Inc., and Red Bull GmbH failed to adequately warn Lisa and others of the dangers of drinking Red Bull. Both of the known Defendants have a duty to inform the consumer of the danger of which Lisa was not aware.

11. Lisa has physical injuries, economic injuries, and mental anguish and she is unable to many things that she could before.

**WHEREFORE**, Plaintiff demands judgment against Defendants Red Bull North America, Inc., and Red Bull GmbH in the amount of \$10,000,000.00, plus court costs.

s/John Kennemer

**JOHN KENNEMER**

Attorney for the Plaintiff

106 W 2<sup>nd</sup> Street

Tuscumbia, Alabama 35674

Ph. (256) 381-5800

Email: kennemerlaw@gmail.com

Fax: (877) 222-0881



## AlaFile E-Notice

41-CV-2018-900451.00

To: JOHN MACLIN KENNEMER  
JohnKennemerLaw@gmail.com

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## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF LAUDERDALE COUNTY, ALABAMA

LISA AINSWORTH SOKOLL V. RED BULL NORTH AMERICA, INC ET AL  
41-CV-2018-900451.00

The following complaint was FILED on 11/6/2018 9:34:31 PM

Notice Date: 11/6/2018 9:34:31 PM

MISSY HOMAN  
CIRCUIT COURT CLERK  
LAUDERDALE COUNTY, ALABAMA  
200 SOUTH COURT STREET  
FLORENCE, AL, 35630  
256-760-5728



## AlaFile E-Notice

41-CV-2018-900451.00

To: RED BULL NORTH AMERICA, INC  
1740 STEWART STREET  
SANTA MONICA, CA, 90404

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF LAUDERDALE COUNTY, ALABAMA

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41-CV-2018-900451.00

To: RED BULL GMBH  
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CIRCUIT COURT CLERK  
LAUDERDALE COUNTY, ALABAMA  
200 SOUTH COURT STREET  
FLORENCE, AL, 35630

256-760-5728



|  |                                    |  |
|--|------------------------------------|--|
| State of Alabama<br>Unified Judicial System<br>Form C-34 Rev. 4/2017 | <b>SUMMONS</b><br><b>- CIVIL -</b> | <b>Court Case Number</b><br>41-CV-2018-900451.00 |
|--|------------------------------------|--|

**IN THE CIRCUIT COURT OF LAUDERDALE COUNTY, ALABAMA**  
**LISA AINSWORTH SOKOLL V. RED BULL NORTH AMERICA, INC ET AL**

**NOTICE TO:** RED BULL NORTH AMERICA, INC, 1740 STEWART STREET, SANTA MONICA, CA 90404  

\_\_\_\_\_  
 (Name and Address of Defendant)

THE COMPLAINT OR OTHER DOCUMENT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT, AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT OR OTHER DOCUMENT, WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE PLAINTIFF(S) OR ATTORNEY(S) OF THE PLAINTIFF(S), JOHN MACLIN KENNEMER  

\_\_\_\_\_  
 (Name(s) of Attorney(s))

WHOSE ADDRESS(ES) IS/ARE: 106 WEST SECOND ST., TUSCUMBIA, AL 35674  

\_\_\_\_\_  
 (Address(es) of Plaintiff(s) or Attorney(s))

THE ANSWER MUST BE MAILED OR DELIVERED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT OR OTHER DOCUMENT WERE SERVED ON YOU OR A JUDGMENT BY DEFAULT MAY BE RENDERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT OR OTHER DOCUMENT.

**TO ANY SHERIFF OR ANY PERSON AUTHORIZED BY THE ALABAMA RULES OF CIVIL PROCEDURE TO SERVE PROCESS:**

☐ You are hereby commanded to serve this Summons and a copy of the Complaint or other document in this action upon the above-named Defendant.

☒ Service by certified mail of this Summons is initiated upon the written request of LISA AINSWORTH SOKOLL pursuant to the Alabama Rules of the Civil Procedure.  

\_\_\_\_\_  
 (Name(s))

11/6/2018 9:34:31 PM                      /s/ MISSY HOMAN                      By: \_\_\_\_\_  

(Date)
(Signature of Clerk)
(Name)

☒ Certified Mail is hereby requested.                      /s/ JOHN MACLIN KENNEMER  

\_\_\_\_\_  
 (Plaintiff's/Attorney's Signature)

**RETURN ON SERVICE**

☐ Return receipt of certified mail received in this office on \_\_\_\_\_  

(Date)

☐ I certify that I personally delivered a copy of this Summons and Complaint or other document to \_\_\_\_\_  

\_\_\_\_\_  
(Name of Person Served)
in \_\_\_\_\_  
(Name of County)
County,

Alabama on \_\_\_\_\_  

(Date)

\_\_\_\_\_  
 (Type of Process Server)

\_\_\_\_\_  
 (Server's Signature)

\_\_\_\_\_  
 (Address of Server)

\_\_\_\_\_  
 (Server's Printed Name)

\_\_\_\_\_  
 (Phone Number of Server)

|  |                                    |  |
|--|------------------------------------|--|
| State of Alabama<br>Unified Judicial System<br>Form C-34 Rev. 4/2017 | <b>SUMMONS</b><br><b>- CIVIL -</b> | <b>Court Case Number</b><br>41-CV-2018-900451.00 |
|--|------------------------------------|--|

**IN THE CIRCUIT COURT OF LAUDERDALE COUNTY, ALABAMA**

**LISA AINSWORTH SOKOLL V. RED BULL NORTH AMERICA, INC ET AL**

**NOTICE TO:** RED BULL GMBH, 1740 STEWART STREET, SANTA MONICA, CA 90404  
 \_\_\_\_\_  
 (Name and Address of Defendant)

THE COMPLAINT OR OTHER DOCUMENT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT, AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT OR OTHER DOCUMENT, WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE PLAINTIFF(S) OR ATTORNEY(S) OF THE PLAINTIFF(S), JOHN MACLIN KENNEMER  
 \_\_\_\_\_  
 (Name(s) of Attorney(s))

WHOSE ADDRESS(ES) IS/ARE: 106 WEST SECOND ST., TUSCUMBIA, AL 35674  
 \_\_\_\_\_  
 (Address(es) of Plaintiff(s) or Attorney(s))

THE ANSWER MUST BE MAILED OR DELIVERED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT OR OTHER DOCUMENT WERE SERVED ON YOU OR A JUDGMENT BY DEFAULT MAY BE RENDERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT OR OTHER DOCUMENT.

**TO ANY SHERIFF OR ANY PERSON AUTHORIZED BY THE ALABAMA RULES OF CIVIL PROCEDURE TO SERVE PROCESS:**

☐ You are hereby commanded to serve this Summons and a copy of the Complaint or other document in this action upon the above-named Defendant.

☒ Service by certified mail of this Summons is initiated upon the written request of LISA AINSWORTH SOKOLL  
 pursuant to the Alabama Rules of the Civil Procedure. \_\_\_\_\_  
 (Name(s))

11/6/2018 9:34:31 PM \_\_\_\_\_ By: \_\_\_\_\_  
 (Date) (Signature of Clerk) (Name)

☒ Certified Mail is hereby requested. \_\_\_\_\_  
 (Plaintiff's/Attorney's Signature)

**RETURN ON SERVICE**

☐ Return receipt of certified mail received in this office on \_\_\_\_\_  
 (Date)

☐ I certify that I personally delivered a copy of this Summons and Complaint or other document to \_\_\_\_\_  
 \_\_\_\_\_ in \_\_\_\_\_ County,  
 (Name of Person Served) (Name of County)

Alabama on \_\_\_\_\_  
 (Date)

\_\_\_\_\_  
 (Type of Process Server)

\_\_\_\_\_  
 (Server's Signature)

\_\_\_\_\_  
 (Address of Server)

\_\_\_\_\_  
 (Server's Printed Name)

\_\_\_\_\_  
 (Phone Number of Server)



## **Exhibit "B"**

1772773

ARTICLES OF INCORPORATION

FILED  
In the office of the Secretary of State  
of the State of California

NOV 8 1995

*Bill Jones*  
BILL JONES, Secretary of State

I

The name of this corporation is Red Bull North America, Inc.

II

The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the GENERAL CORPORATION LAW of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

III

The name and address in the State of California of this corporation's initial agent for service of process is:

Name Scott B. Slade

33 Driftwood #1  
STREET Address

City Marina Del Rey State CALIFORNIA Zip 90292

IV

This corporation is authorized to issue only one class of shares of stock; and the total number of shares which this corporation is authorized to issue is Five Hundred (500)

*Scott B. Slade*  
(Signature of Incorporator)

Scott B. Slade

(Typed Name of Incorporator)